although in fact permitting a recovery by him in his parental relation, was the rule of a legal fiction which no longer obtains under the reformed procedure, because of the abolition by the Code of fictions in pleading, and its requirement to state the actual facts in controversy."

NEGLIGENCE—DRUGGIST SELLING PROPRIETARY MEDICINE WITHOUT KNOWING CONTENTS—Plaintiff's daughter was suffering from a headache, and went to the store of defendant, a druggist, and asked for and obtained a "Kohler Headache Powder." Returning home, she took the powder, and died from its effects. The action was for the recovery of damages, the plaintiff's contention being that "the vender of drugs is bound to know what he is selling, to such an extent at least, as to insure that he is not selling the ignorant public a deadly poison disguised as a useful medicine." *Held*, that there could be no recovery. *West* v. *Emanuel*, (1901) 198 Pa. 180, 47 Atl. Rep. 965, 53 L. R. A. 329.

It appeared that Kohler's headache powders were a well known preparation, generally kept on sale by druggists, and recognized and regarded as an efficient and proper remedy for headaches. They were prepared by Kohler and sold by him to the druggists. "In the sales of patent or proprietary medicines furnished by the compounder of the ingredients which compose them," said the court, "the druggist is not required to analyze the contents of each bottle or package he receives. If he delivers to the consumer the article called for, with the label of the proprietary or patentee upon it, he cannot be justly charged with negligence in so doing."

The liability of the druggist who in person or by his clerk negligently sells a dangerous drug for a harmless one, is abundantly established by the authorities, [*Brown* v. *Marshall*, (1882) 47 Mich. 576, 41 Am. Rep. 728; *Thomas* v. *Winchester*, (1852) 6 N. Y. 397, 57 Am. Dec. 455; *Fleet* v. *Hollenkemp*, (1852) 13 B. Mon. 219, 56 Am. Dec. 563; *Wise* v. *Morgan*, (1898) 101 Tenn. 273, 48 S. W. Rep. 971, 44 L. R. A. 548; *McCubbin* v. *Hastings*, (1875) 27 La. Ann. 713; *Norton* v. *Sewall*, (1870) 106 Mass. 143, 8 Am. Rep. 298; *Smith* v. *Hays*, (1886) 23 Ill. App. 244; *Peters v. Johnson*,—W. Va.—, 41 S. E. Rep. 190;] even where the person injured is a remote but naturally to be expected user, (*Thomas* v. *Winchester*, *supra; Norton* v. *Sewall*, *supra; Wise* v. *Morgan*, *supra;*) but the present case is easily distinguishable. It is more nearly analogous to the case of the seller who furnishes, at the request of the purchaser, a known, described and defined article, in which case, as is well settled, (Mechem on Sales, §1349,) there is no implied warranty of fitness for intended use. It seems clear enough that druggists, in these days, could do business on no other rule. Where the druggist is himself the manufacturer of the article, and puts in harmful drugs, a different case is obviously presented. See *George* v. *Skivington*, *L. R. 5 Exch. 1.*

PHYSICIAN—DUTY TO RESPOND TO CALL—An interesting case, apparently of first impression, but determined upon well settled principles, came lately before the supreme court of Indiana. The defendant was a practicing physician, licensed under the laws of the state, and holding himself out to